

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B03

PLR-106114-16

Date:

May 17, 2016

LEGEND

X =

Trust1 =

A =

State1 =

State2 =

Date1 =

Date2 =

Date3 =

Date4 =

Year =

N1 =

Dear _____ :

This responds to a letter dated February 22, 2016, submitted on behalf of X by X's authorized representative, requesting a ruling under § 1362(f) of the Internal Revenue Code (the Code).

The information submitted states that X was incorporated under the laws of State1 in Year. X merged into another State2 corporation on Date1. X elected to be an S corporation effective Date2. A established Trust as an irrevocable trust on Date3 and transferred N1 shares of X to Trust on Date3. X represents that Trust was properly treated as a grantor trust for purposes of §§ 671-677 of the Code from Date3 until Date4, when A relinquished the powers over Trust that A had previously retained. X further represents that Trust ceased being a grantor trust on Date4, but otherwise met the requirements to be an electing small business Trust ("ESBT") beginning Date4. However, the trustee of Trust failed to timely file the election under § 1361(e) to treat Trust as an ESBT effective Date4.

X represents that X and all of X's shareholders have filed tax returns consistent with X being an S corporation since Date2. In addition, X represents that Trust has filed tax returns consistent with its treatment as an ESBT since Date4. X further represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make such adjustments consistent with the treatment of X as an S corporation as may be required by the Secretary.

Section 1362(f) provides that if (1) an election under § 1362(a) by a corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in the ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the circumstances resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation or (B) to acquire the shareholder consents, and (4) the corporation and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in the ineffectiveness or termination, the corporation will be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that X's S corporation election terminated on Date4 as the result of the failure of the trustee Trust to make an election under § 1362(1) to treat Trust as an ESBT effective as

of that date. We further conclude that the termination of X's S corporation election on Date4 was inadvertent within the meaning of § 1362(f). We further hold that, pursuant to the provisions of § 1362(f), X will be treated as continuing to be an S corporation from Date4 and thereafter, provided that X's S corporation election was valid and provided that the election was not otherwise terminated under § 1362(d).

This ruling is contingent upon the trustee of Trust filing an ESBT election on behalf of Trust with an effective date of Date4. This election must be filed with the appropriate service center within 120 days of the date of this ruling. A copy of this letter should be attached to the election.

If the above condition is not met, then this letter ruling is null and void. Furthermore, if this condition is not met, X must send a notification that its S election has terminated to the service center with which X's S election was filed.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed regarding X's eligibility to be an S corporation or the validity of its S corporation election. Further, no opinion is expressed as to whether Trust qualifies as an ESBT or previously qualified as a grantor trust.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: